

### **REMARKS**

Favorable reconsideration of the application is respectfully requested in light of the amendments and remarks herein.

Upon entry of this amendment, claims 1-25 will be pending. No new matter has been added.

#### **Objections to the Drawings**

On Page 2 of the Office Action, the drawings are objected to as failing to comply with 37 CFR §1.84(p)(5) because Fig. 4 includes reference character 22, which is not mentioned in the description. The Specification has been amended to describe character 22 to avoid abandonment of the application.

#### **Objections to the Specification**

On page 2 of the Office Action, the Specification is objected to because of the term "ATRAC3" has not been defined.

The Specification has been amended to define "ATRAC3." "ATRAC3" is also defined in the original Specification on page 29, lines 2-6.

#### **§ 102 Rejection of Claims 1 – 25**

On Page 3 of the Office Action, claims 1 – 25 stand rejected under 35 U.S.C. §102(e) as being anticipated by Morito (U.S. Patent No. 6,782,190; hereinafter referred to as "Morito"). This rejection is respectfully traversed below.

In the Background section of the Specification, it was indicated that the present invention relates to a system, apparatus, method and recording medium “suitable for transfer and recording of content data such as music to be copyright protected.” *Background of the Specification, page 1, lines 6-10.* “For example, content data such as music are stored in a hard disk drive (hereafter referred to as a HDD), the recording medium, of a personal computer, the stored content data are transferred to another recording medium (the secondary recording medium), and the content data are reproduced from this secondary recording medium.” *Background of the Specification, page 1, lines 11-16.* For example, “[t]he user of the personal computer connects a recording apparatus for the secondary recording medium to the personal computer, copies or moves the content data from the HDD to the secondary recording medium, and reproduces the content data such as music through a reproducing apparatus compatible with the secondary recording medium.” *Background of the Specification, page 1, line 22 to page 2, line 4.* “[I]f users can store content data into the HDD of their personal computers by downloading the content data through content data distribution services or from purchased package media and then copy the stored content data without restriction to secondary recording media, a problem of copyright violation occurs.” *Background of the Specification, page 2, line 19 to page 3, line 1.*

To overcome this potential copyright violation problem, the SDMI (Secure Digital Music Initiative) data handling standard has been proposed. *Background of the Specification, page 3, line 1-5.* According to the SDMI-compliant data path, encrypted content data is transmitted to a secondary recording medium and copying of the content data is controlled to ensure proper copyright protection of the content data. *Background of the Specification, page 10, lines 10-15 (emphasis added).* Yet currently popular Mini Disc systems cannot recording encrypted data to Mini Discs, because no Mini Disc reproducing device has a decoder for decrypting encrypted data. *Background of the Specification, page 11, lines 7-10.* A method could be proposed in

which SDMI content is transferred, in a decrypted state, to a non-SDMI Mini Disc recording apparatus to be copied to a secondary recording medium or Mini Disc. *Background of the Specification, page 11, line 22 to page 12, line 2.* Transferring decrypted content data, in this manner, however, might allow unauthorized copy of content data. *Background of the Specification, page 12, lines 3-6.*

To address the above-described problems, the present invention seeks to maintain copyright protection without restricting the proper use by users of content data, whether if it is recorded in encrypted or decrypted format. *Specification, page 12, lines 9-12 and 20-25; page 13, lines 1-6.* Embodiments of the present invention include a method, apparatus, system and medium for allowing transfer of data according to the above objective. *Specification, page 12, lines 12-19.*

In particular, the structure of data transfer apparatus claim 1, as presented herein, includes:

1. A data transfer apparatus comprising:

transfer means for transferring content data encrypted in a predetermined manner from a first recording means which can store encrypted content data to an external apparatus;

discrimination means for making discrimination between a first external apparatus which can record only encrypted content data to a second recording means accommodated in said external apparatus connected to said data transfer apparatus and a second external apparatus which can record only decrypted content data to said second recording means; and

if said first external apparatus is discriminated by said discrimination means, control means for decrementing a transfer count of the encrypted content data when transferring said encrypted content data from said first recording means to said external apparatus, incrementing said transfer count when said encrypted content data are returned from said first external apparatus, and disabling the transfer of said content data from said first recording means to said external apparatus if said transfer count has exceeded a predetermined limit value and,

if said second external apparatus is determined by said discrimination means, said control means disabling the return of the encrypted content data from said second external apparatus.

(emphasis added)

In summary, the data transfer apparatus of claim 1 includes “discrimination means for making discrimination between a first external apparatus which can record only encrypted content data . . . and a second external apparatus which can record only decrypted content data to said second recording means.” (emphasis added)

By contrast, Morito does not appear to disclose this claim language. Morito describes a method of creating a original disk containing a digital signature and then checking, at a DVD player/recorder 13, whether the disk being played is an original or authorized copy based on the disk’s digital signature. *Morito, Abstract, Col. 5, line 11-45*. Morito does not mention or imply that the first recording means that creates the original disk, is part of “a data transfer apparatus comprising . . . discrimination means for making discrimination between a first external apparatus which can record only encrypted content data . . . and a second external apparatus which can record only decrypted content data, as claimed. Though Morito discusses recording data from one disk to another location, in this section Morito explains how unauthorized copies may be prevented from being made by using a recording device that performs the same verification check as the DVD player/recorder 13. *Morito, col. 6, lines 15-27*. This verification process still fails to disclose a “discrimination means for making discrimination between a first external apparatus which can record only encrypted content data to a second recording means accommodated in said external apparatus connected to said data transfer apparatus and a second external apparatus which can record only decrypted content data to said second recording means,” to meet the invention’s objective of transferring content data in both an encrypted and decrypted manner while also maintaining copyright protection. Therefore Morito fails to disclose or suggest all the limitations recited in claim 1.

Based on the foregoing discussion, it is submitted that claim 1 should be allowable over Morito. Since claims 2-8 depend from claim 1, claims 2-8 should also be allowable over Morito.

Independent claims 9, 17, 24 and 25 substantially parallel claim 1 and therefore should also be allowable over Morito. Since claims 10-16, and 18-23 depend from one of claims 9 and 17, claims 10-16 and 18-23 should also be allowable over Morito.

Accordingly, it is submitted that the rejection of claims 1 – 25 based upon 35 U.S.C. §102(e) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

**CONCLUSION**

In view of the foregoing, entry of this amendment, and the allowance of this application with claims 1-25 are respectfully solicited.

In regard to the claims amended herein and throughout the prosecution of this application, it is submitted that these claims, as originally presented, are patentably distinct over the prior art of record, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes that have been made to these claims were not made for the purpose of patentability within the meaning of 35 U.S.C. §§101, 102, 103 or 112. Rather, these changes were made simply for clarification and to round out the scope of protection to which Applicant is entitled.

In the event that additional cooperation in this case may be helpful to complete its prosecution, the Examiner is cordially invited to contact Applicant's representative at the telephone number written below.

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account 50-0320.

Respectfully submitted,

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